

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare-Khammam District- Revision Petition filed by Sri D.Nageswara Rao, S/o.Late N.Narasaiah R/o: Rajalingala, Khammam District aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in CMA No.179/2005, dt.29.12.2007 and also the orders of Spl.Dy.Collector (T.W) Bhadrachalam in case No 48/2004/ENK Dt:24.01.2005 - Dismissed -Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 16

Dated: 28-04-2017

Read the following:-

1. Revision Petition filed by Sri D.Nageswara Rao, S/o.Late N.Narasaiah R/o: Rajalingala, Khammam District dt: 13.09.2008.
 2. Govt.Lr.No.7074/TW.LTR.2/2008, dated 05.12.2008
 3. From the Addl. Agent to Govt. Lr.RP.No.9473/LTR-2/2008 (RP 7074/LTR-2/2008)(CMA.No.179/2005), dated 06.02.2010
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ORDER

In the reference 1st read above, Sri D.Nageswara Rao, S/o.Late N.Narasaiah R/o: Rajalingala, Khammam District filed Revision Petition aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in CMA No.179/2005, dt.29.12.2007 and also the orders of Spl.Dy.Collector (T.W) Bhadrachalam in case No 48/2004/ENK Dt:24.01.2005. in respect of lands admeasuring Ac.6.01 gts in Sy.No.670 of Burda Raghavapuram (V) Enkoor (M) Khammam District

2. In response to the reference 2nd read above, the Project Officer & Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records to Government vide reference 3rd read above.

3. The Main grounds of the case are as follows:-

- The case was initiated on the report of the Spl.Dy.Tahsildar, Bhadrachalam stating that Sri D.Nageswar Rao (Non-Tribal) is in possession of the scheduled land.

The Spl.Dy.Collector after due verification of the records has observed that the respondent Sri D.Nageswara Rao has failed to produce the sale deed L.R.Receipts and pahani extract for the year 1968-69, 1969-70, 1970-71. It is cleared that, the respondent ie., D.Nageswara Rao has entered into the suit land after enforcement of the Regulation. Moreover having occupied the suit land in Agency Area, the burden of the proof lies on the respondent (Non-Tribal) to prove his title and possession over the suit land prior to 3.2.70 and ejected the suit land to Government.

- As per the evidence placed before the Spl. Deputy Collector(TW) , it is proved that the transfer of immovable property belonging to the non-tribe (Revision Petitioner herein) was made to another non tribal in contravention of the sub-section 1 of the section-3 APSALTR 1959 r/w the Regulation 1/70 after commencement of the said regulation and as such it is null and void.
- In view of the above, the Spl. Deputy Collector(TW) Bhadrachalam issued order ejectment of Sri D.Nageswara Rao (Non-Tribal) or whomever is in possession of the Immovable property in Sy.No.670 to an extent of Acs.6.01 in Burdaraghavapuram and directed that the immovable property in question be taken to Government custody under cover of panchanama and assign the same to the eligible tribals as per rules in force.
- Against the above orders of the Spl. Deputy Collector (TW), Bhadrachalam, Sri D.Nageswara Rao (Non-Tribal) had filed an Appeal petition before the Additional Agent to Government, Bhadrachalam. The Additional Agent to Government after careful examination of the matter, it is observed that the appellant Sri D.Nageswara Rao has not filed any sale deed dt.2.9.1956 and the pahanies of the year of purchase or prior to the commencement of the regulation.
- The scheduled property really in possession of the appellant D.Nageswar Rao family since 1956 their names would have been recorded at least in the enjoyer's column prior to Regulation 1 of 70. The appellant D.Nageswar Rao has not made any efforts to file the pahanies to show his alleged possession.

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- The appellant D.Nageswara Rao has not filed any ROR pass book said to have been given by the Revenue Authorities.
- The appellant stated that the Hon'ble High Court was pleased to hold in number of cases that the agreement of sale prior to the regulation can be considered. Without filing any alleged sale agreement the appellant cannot claim any shelter under the decisions of the Hon'ble High Court. The appellant totally failed to prove his case.

In view of the above, the Addl.Agent to Govt., Bhadrachalam has dismissed the appeal and directed the Tahsildar, Enkoor to take over the possession of the suit scheduled land into the Government custody who ever in the suit land and distribute the same to the eligible tribals under cover of panchanama vide CMA No.179/05 dt.29.12.2007.

4 The remarks of the AAG, Bhadrachalam on the revision petition are as under:

- The Revision Petitioner's case is that his father purchased the schedule land prior to the A.P.Scheduled area land transfer rules 1969. The Revision Petitioner not filed the alleged sale document said to have been purchased by his father. In the absence of alleged sale, the petitioner's claim cannot be accepted.
- The lower court order in LTR case No.48/04 clearly states that the respondents failed to produce the sale deed, Land Revenue Receipts and pahani extracts prior to 1970-71. In Additional Agent to Government court also the Revision Petitioner failed to produce the alleged sale deed dt.2.9.1956 and pahani copies for the year of purchase. Without filing any peace of documents, the revision Petitioner saying that the AAG and Spl. Deputy Collector (TW) failed to appreciate the documents.
- It the duty of the Revision Petitioner to produce the relevant documents to show that his possession is not in contravention of the regulation. As per the regulation the burden lies on the Non Tribal Revision Petitioner to prove his title on the suit land.
- Therefore the order of the Additional Agent to Government & Spl. Deputy Collector (TW) is proper and legally correct according to the provisions of APSA LTR 1/59 as amended by 1/70.
- On perusal of the material available in the file, it may be observed that in the lower court the respondents (Revision Petitioner herein) failed to produce the sale deed, Land Revenue Receipts and pahani extracts prior to 1970-71. In Additional Agent to Government court also the Revision Petitioner failed to produce the alleged sale deed dt.2.9.1956 and pahani copies for the year of purchase. In the absence of documents the petitioner's claim cannot be accepted.
- The matter stood thus, the Revision Petitioner, Sri D.Nageswara Rao had filed a writ petition No.12062/09 before the Hon'ble High Court of A.P., The Hon'ble High Court in its order dt.22.06.09 directed the Government to dispose of the Revision Petition pending on its file, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of the order. Till such orders are passed status quo obtaining as on today as to the nature and possession of the property in question shall be maintained.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before this authority as well as before the Addl.Agent to Govt it is observed that;

(i) The Revision Petitioner has claimed that his grandfather purchased the property in dispute i.e Ac.6-01gts in S.No-670 of Buradaraghavapuram (v) of erstwhile Ellandu Taluk (Prasently Enkoor Mandal) from one Sri. Galisaheb on 06.01.1958 and produced Xerox copy of sale agreement on plain paper stated to be executed by Galisaheb and as verified the xerox copy of sada sale agreement the same was written with ballpoint pen which is not in existence in the year 1958.

(ii) Further the Revision petitioner has not produced the original sale agreement for perusal. Further the name of father of the seller of the said land Sri.Galisaheb is also not there in the sale agreement. The document produced is a copy of sale agreement but not sale deed. Even the Revision Petitioner could not produce Pahani copies from 1956 at least to prove that he has been cultivating the land in Sy.No:670.

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(iii) As verified from the connecting file of Addl.Agent to Govt, Bhadrachalam in CMA No: 179/2005 the Revision petitioner claimed that the land in question was purchased by his

Grandfather on 02.09.1956 , but no document was produced by him even before the Addl.Agent to Govt.

(iv) The Revision Petitioner is unable to produce any documentary evidence except the Xerox copy of sada sale agreement dt:06.01.1958 in support of his claim and he has not produced any Revenue record. Further he has claimed to have purchased the land on two

Different dates (i.e-02.09.56 before Addl.Agent to Govt and 06.01.1958 before govt) which leads to suspicion. His claim is only on the strength of Xerox copy of sada sale agreement.

6. Government after careful examination of the matter, here by dismissed the appeal of Sri Danthala NageswarRao and hereby upheld the orders of Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam Dt:29.12.2007 in CMA No:179/2005.

7. The Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDERS AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

SOMESH KUMAR,
PRINCIPAL SECRETARY TO GOVERNMENT

To

1) Sri D.Nageswara Rao, S/o.Late N.Narasaiah
R/o: Rajalingala, Khammam District.

2)The Project Officer, ITDA and
Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District (w.e.)

Copy to :

The Special Dy. Collector (TW), Bhadrachalam,
Bhadradi Kothagudem District for information and necessary action.
The Tahsildar, erstwhile Ellandu Taluk and presently Enkur Mandal,
Khammam District for necessary action.

P.S to Minister (TW)

P.S. to Prl. Secretary (TW)

SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER